

WEISS & HILLER, PC
Attorneys at Law
600 Madison Avenue
New York, New York 10022
(212) 319-4000

Direct email: mhiller@weisshiller.com
Website: www.weisshiller.com

Telecopier: (212) 753-4530

July 6, 2011

Via Electronic Case Filing System

Honorable Sandra L. Townes
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Moran Towing Corporation v. The Barge New Jersey, et al.*
11 Civ. 2636 (SLT)

Dear Judge Townes:

We write in response to the letter sent by plaintiff's counsel earlier this afternoon.

In his letter, opposing counsel contends that the removal of the barge NEW YORK from the district "is a direct attempt to thwart the Court's order of arrest." That is simply false. The NEW YORK transships cargo to and from Newark and Brooklyn in accordance with schedules dictated by the arrivals and departures of ships to the Port District. American's transshipment of cargo across the East and Hudson Rivers today was pursuant to those schedules; it was not an effort to thwart anything. And, importantly, the warrant had not been served at that time. The request for contempt against American should be denied.

The request that Weiss & Hiller, PC (or that I personally) be held in contempt should also be denied. Yesterday, I wrote the following:

In view of the foregoing, we will file the Order to Show Cause later this evening or tomorrow morning, after the NEW YORK has been returned to Brooklyn. This should afford the Court an opportunity to receive our papers and the *ex parte* order, and perhaps schedule a hearing in the near future to dispose of the issues presented while the NEW YORK is situated within the District.

My statements to the Court were made in good faith and, more importantly, I fully complied with each of my representations. We did, in fact, file the Order to Show Cause this morning. And, at that time, the NEW YORK had been returned to Brooklyn. Additionally, as my letter suggested,

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I believe that the Court did, in fact, have an opportunity to receive our papers and the *ex parte* order (filed by opposing counsel). My statement that I thought that the Court could "perhaps schedule a hearing in the near future ... while the NEW YORK was situated in the District," was intended as a suggestion that the Court calendar this matter as soon as possible, so as to avoid a devastating blow to American's business. But the matter was scheduled for Friday at 2 pm and, during the interim, the NEW YORK was moved to Newark in accordance with the preset schedules referenced above. While I had hoped that the matter could have been addressed sooner, I do not, nor would I presume to, control the Court's calendar. I made no misrepresentation to the Court and regard the request for contempt relief against me and/or my firm to be utterly offensive to this process.

Furthermore, the request for contempt against me and/or my law firm implies that opposing counsel has an understanding of the advice I rendered to American. Respectfully, opposing counsel's implications are completely unsubstantiated, to say the least. The application for contempt against counsel should be denied.

The NEW YORK will return to Brooklyn tomorrow as scheduled, and will most likely be arrested at that time. The ships en route to Brooklyn -- HOFUF and GABON -- will be unable to unload and then load cargo, and there will be consequences for that which we had hoped to avoid. American's business will be brought to a halt; and third parties who have nothing to do with this dispute will be caused to suffer damages.

We continue to maintain that, to permit the NEW YORK to transship cargo to and from Newark prejudices no one and no party, while simultaneously assuring that third parties completely removed from this litigation are not harmed. We recognize that the Court did not agree with us on this point, at least on an interim basis, and we, of course, respect the Court's decision. When the NEW YORK is arrested tomorrow, it will remain arrested unless and until this Court vacates the warrants and orders effectuating that arrest. But the assertion that I, my law firm or American are guilty of contempt is plainly improper and should be rejected.

Respectfully submitted,



Michael S. Hiller

MSH:me

c: Richard Singleton, Esq.
 Michael Geraghty, Esq.